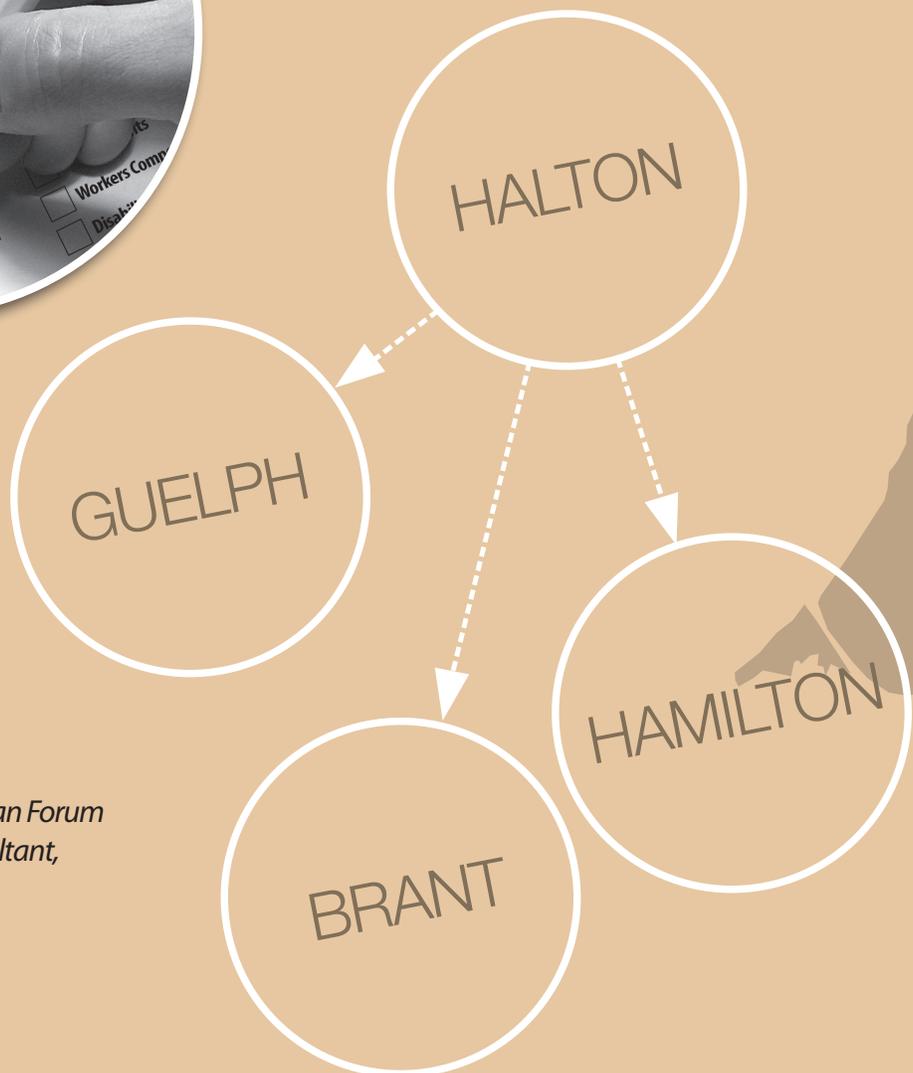


THE NEXT STEP

The Subregional Rollout of the Legal Health Check-Up



Ab Currie

Senior Research Fellow, Canadian Forum on Civil Justice; Research Consultant, Legal Health Check-Up Project

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Project Team

Project Lead: Colleen Sym, Executive Director/Lawyer, Halton Community Legal Services

Project Consultant: Mike Balkwill, Balkwill and Associates

Researcher and Evaluator: Dr. Ab Currie, Canadian Forum on Civil Justice

IT Consultants/Web design: The Dunham Group, www.thedunhamgroup.com

Graphic Design/Layout: Tony Biddle, www.perfectworldldesign.ca

Graphic Facilitation: Tanya Gerber, Tanya Gerber & Associates, www.tanyagerber.com

Team Members/Halton Community Legal Services staff

Editor: Eric Mills, Eric Mills Editing & Design

Subregional Adopters

Community Legal Clinic, Brant Haldimand Norfolk, Ian Aitken, Executive Director

Hamilton Community Legal Clinic, Hugh Tye, Executive Director; Kathy Calverley, Support Staff

Legal Clinic Guelph and Wellington County, Anthea Millikin, Executive Director; Sarah Stewart, Legal Health Check-Up Worker

We thank our partners for their participation and contributions to the Sub-Regional rollout phase of this project:

Brant, Haldimand and Norfolk Community Legal Clinic

Community Living Access Support Services
De dwa dehs nye > s Aboriginal Health Centre
Haldimand Norfolk Resource Centre
Literacy Council of Haldimand Norfolk
Ontario Works Haldimand Norfolk
Salvation Army
Simcoe Caring Cupboard
United Way of Haldimand Norfolk

The Legal Clinic of Guelph and Wellington County

Anishnabeg Outreach
Brant Avenue Neighbourhood Group
East Wellington Community Services
Guelph Community Health Centre
Immigrant Services Guelph Wellington
North End Harvest Market
Rural Wellington Community Team
West Willow Woods Neighbourhood Group

Hamilton Community Legal Clinic

Barrett Centre for Crisis Support
Centre de santé communautaire Hamilton/Niagara
College Boréal
De dwa da dehs nye > s Aboriginal Health Centre
First Pilgrim
Hamilton Housing Help Centre
Hamilton Organizing for Poverty Elimination (HOPE)
Hamilton Regional Indian Centre
Immigrants Working Centre
Legal Aid Ontario
McMaster Family Practice
Neighbour to Neighbour Centre
Notre Dame House

Introduction

Nine community legal clinics in Ontario’s Southwest Region plan to adopt, or are implementing, the Legal Health Check-Up (LHC) approach to identifying and meeting unmet legal needs:

Chatham-Kent Community Legal Clinic
Community Legal Assistance Sarnia
Elgin Oxford Legal Clinic
Huron-Perth Community Legal Clinic
Justice Niagara
Legal Assistance of Windsor
Neighbourhood Legal Services London and Middlesex
Waterloo Region Community Legal Service
Windsor-Essex Bilingual Legal Clinic

Three other clinics—Hamilton Community Legal Clinic, the Legal Clinic of Guelph and Wellington County, and the Brant, Haldimand and Norfolk Community Legal Clinic—are currently implementing the LHC approach. This report concerns the rollout of the LHC project to those three clinics, and plans for phase II development at the Halton clinic.

Following a pilot project at Halton Community Legal Services, the three-clinic rollout is an important step in the evolving the LHC concept. While not a template to be copied, the Halton pilot project is a model to be adapted to new settings and objectives that clinics decide to pursue or consider feasible. The power of a good concept is not that it is imitated but that it inspires adaptation and creativity. Adaptation of the Legal Health Check-Up in Hamilton, Brant and Guelph is the next step in developing the project in different circumstances: different service delivery environments, different intermediary groups, different relationships with intermediaries, and different ideas held by people in the three clinics—who have their own ideas and their own critical assessment of the Halton phase.

In Halton, the LHC idea continues to evolve. The pilot project demonstrated that clinic-intermediary partnerships, using the Legal Health Check-Up tool, are effective for outreach.¹ The most recent literature about access to justice recognizes that outreach is an essential element of identifying unmet legal needs and providing pathways to legal help for people who would not otherwise seek timely assistance.² The pilot phase in Halton also strongly indicated that clinic/intermediary collaboration is a promising approach to providing holistic and integrated service. The LHC approach offers one way to extend the reach of legal aid by leveraging community resources through active partnering arrangements.

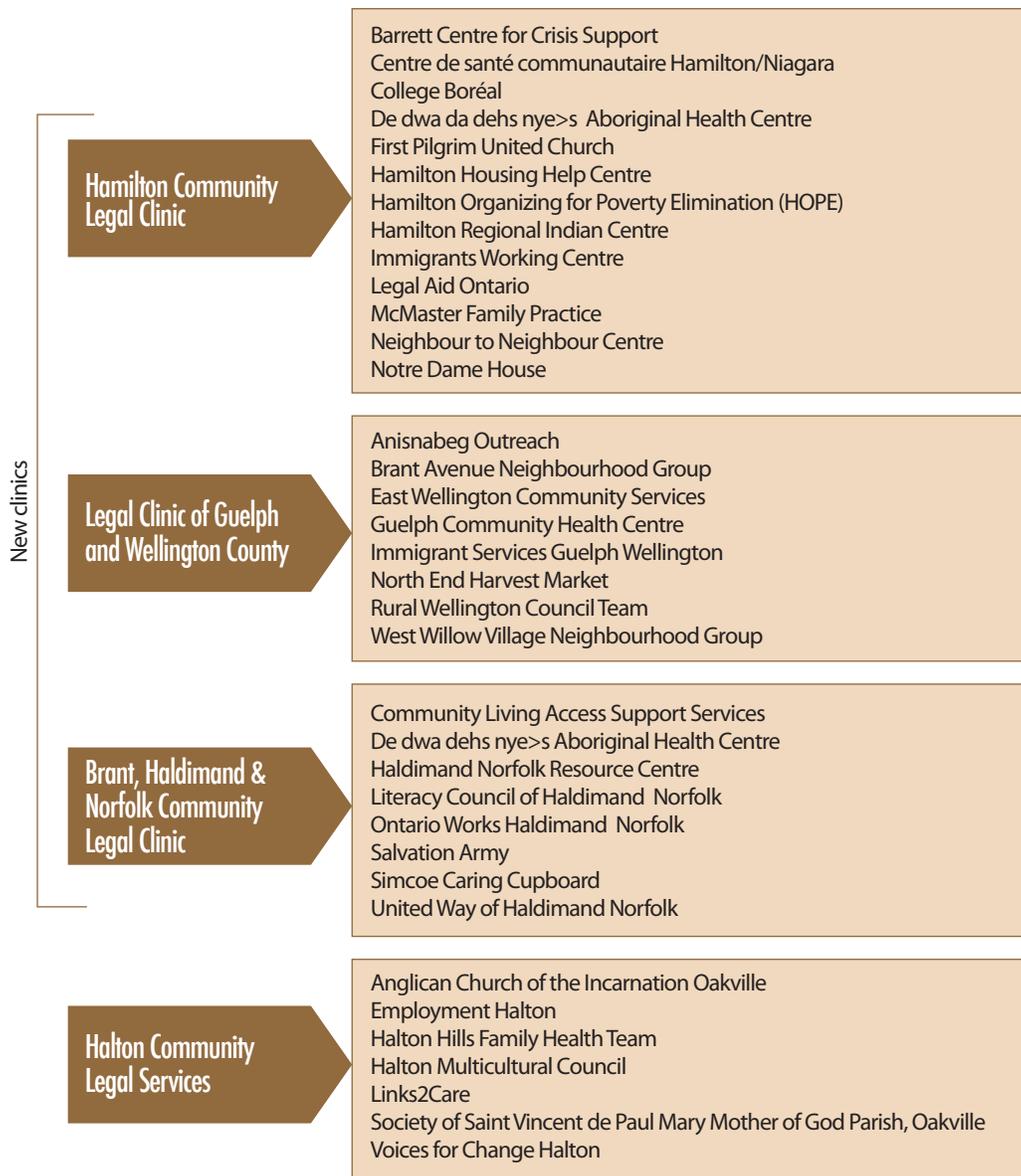
1. A. Currie, “Extending the Reach of Legal Aid: Report on the Pilot Phase of the Legal Health Check-Up Project, 2015,” available at www.Legalhealthcheck-up.ca.
2. Pascoe Pleasence, Christine Coumarelos, Suzie Forell and Hugh M. McDonald, “Reshaping Legal Assistance Services: Building on the Evidence Base,” Law and Justice Foundation of NSW, 2015.

This report summarizes the early experience of the three adopting clinics (Hamilton, Guelph and Brant) and reports on plans to develop the LHC approach in Halton and elsewhere. The report is organized around themes or aspects of LHC implementation rather than a narrative for each clinic currently adopting the approach.

Recruiting Intermediaries

All three clinics that are implementing the LHC approach had no difficulties in recruiting intermediaries. From about June to October of 2015, each clinic was able to

Figure One:
Intermediary Partners
for the Four Clinics



enlist between seven and thirteen intermediary partners, most of which the clinics had worked with over the years. The Guelph clinic staff indicated they considered what they already knew were “hot spots” of unmet need in selecting intermediaries. Halton had been working with seven intermediary groups during the previous year, and continues with the same organizations.

Using the LHC Form

During the first weeks of the rollout, the three adopting clinics found that intermediaries were not using the LHC forms in large numbers. Table One shows the number of LHC forms that have been submitted to the clinics via intermediaries.

Table One: Grand Total of LHC Activity to December 21, 2015

	Completed questionnaires 	Abandoned questionnaires 	Service requested 	Percentage of completed questionnaires with service requested
HALTON CLINIC	442	245	149	35% 
HAMILTON CLINIC	110	103	30	27% 
BRANT CLINIC	41	26	13	32% 
GUELPH CLINIC	35	48	12	34% 

Until mid-December 2015, when staff involved in the LHC project in the three adopting clinics were interviewed, contacts had been made at the management level by all three clinics. Guelph had also carried out training for both clinic staff and intermediaries. During Halton’s pilot phase, a concerted effort was made to train front-line staff of the intermediaries to systematically administer the LHC questionnaire to their clients. People from Voices for Change Halton were especially encouraged to contact people in their constituency.

During the intensive effort of the pilot phase in Halton, the seven intermediaries completed over 300 LHC questionnaires. Since then, however, the numbers of LHC forms completed by intermediaries in Halton have declined. The LHC output from Halton intermediaries is currently not much greater than that of the intermediaries from the other clinics. The Halton pilot’s outreach identified increased numbers of clients,³

3. At a basic level, outreach impact can be measured by the number of people served. In the Halton project’s pilot phase, people completing LHC forms requested public legal education (known as PLE), information about support group sessions and contact by intake in about equal proportions. However, due mainly to time constraints, clients were not contacted about the impact of the service provided. That information would assist in understanding the overall impact of outreach, and should be examined in subsequent research.

but it appears that sustaining an increased level of contacts would require a similar labour-intensive outreach effort.

Several possible reasons for the low uptake were suggested by the three clinics currently adopting the LHC. Front-line workers in the intermediary organizations are extremely busy. Second, they may have their own intake process, either formal or informal. Possibly, a crisis environment contributes to light use of the LHC form. Most problems that come to the attention of front-line workers are crises, it was suggested. Clients may have many problems simmering close to the surface but deal with the ones that are immediately critical. The LHC is intended specifically to overcome this problem, but could end up constraining intermediaries or orienting them toward single, immediate problems.

One interviewee suggested that the LHC form is primarily, or mainly, a preventative tool, whereas the front-line agencies that are the intermediary groups deal with crisis. Many disadvantaged people have multiple interconnected problems, and crisis or even a cascading crisis of multiple problems is never far from the surface. There may be tension between using the LHC questionnaire to systematically identify a range of people's problems and the crisis environment in which most intermediaries deal with clients.

Unattributed Check-Up Forms

A large number of LHC forms were submitted via the Internet and are not attributed to any intermediary. Little is known about those submitting these forms. However, the use of technology to enhance and extend access to justice is much discussed in the literature.⁴ Research on the people making these “hits” and their problems is needed to further explore the potential of web-based technology to develop the LHC approach.

Requests for Service

Table One indicates that requests for service at all four clinics as a percentage of completed forms ranges from 27% to 35%. Why the other two-thirds to three-quarters do not request service is an important question, and we have no data to answer it. In interviews regarding Halton's pilot phase, one intermediary reported that a person he was helping to complete the LHC form resisted being contacted by the clinic, saying *I know I have problems, but they are not serious enough to need a lawyer*. This suggests a conventional concept of legal help being related to only the most complex, serious and difficult matters—the domain of expensive lawyers and the courts. It may illustrate one type of barrier that reduces access to the holistic and preventative assistance provided by the LHC model, which attempts to intervene before a problem becomes a full-blown crisis.

4. Roger Smith, *Digital Delivery of Legal Services to the Poor*, The Legal Education Foundation, 2015, and Roger Smith and Alan Paterson, “Face-to-Face Legal Services and their Alternatives: Global Lessons from the Digital Revolution”, 2014.

Building Relationships

For two of the three clinics that followed the Halton pilot, interactions with new intermediaries has been at a low level since initial partnership agreements were struck. Both have decided to resume contacts with intermediaries early in 2016. One interviewee suggested, regarding the early experience, that the greatest initial value of the Legal Health Check-Up is to create relationships with additional community agencies. Increasing the number of points of contact is always good.

The Guelph clinic has proactively engaged with intermediary organizations and the clients flowing through them to the clinic. Following the Halton example, Guelph views the LHC as the beginning of a dialogue, a platform to engage with intermediaries to explore systemic community needs. Interviewees reported that the community agencies appear eager to discuss with the clinic how to deal with their clients' issues.

At the client level the LHC has become a vehicle to engage in a different way. Guelph interviewees say the LHC process *has completely changed how we deal with people's issues*. Departing from an ideally clean, linear approach to wrap up a legal issue, the evolving LHC approach encourages clients to discuss the range of their problems, to participate in resolving them and to prioritize what they want to tackle. Because people typically have much going on in their lives, interviewees say, they will constructively deal with their own problems when they are proactively engaged by the clinic worker and encouraged to set priorities. An individual in one intermediary group interviewed for the Halton pilot study said this form of engagement with clients represents *a different kind of lawyer*. Overall, the LHC form begins a conversation and is a foundation for dealing with clients holistically, bringing integrated service delivery into an inherently *messy and ambiguous process* (Guelph interviewee). In Guelph's early experience, the service was transformed profoundly.

The Guelph clinic is using this new knowledge from clients and intermediaries to examine client pathways to assistance—where do people go when they need help? In addition, the Guelph clinic is taking advantage of agencies' knowledge of their clients to understand better their capabilities and consider how to assist them. Further, Guelph envisions intermediaries building relationships among themselves as well as with the clinic. This would represent a network of access to justice services, collaboration to address problems at a multilateral level, possibly with the legal clinic at the hub.

The Brant clinic has articulated a view of the LHC process that is similar to Guelph's: to be *on retainer for the poor... being with them from the point of first contact as they move out of poverty*. This vision is similar to a *different kind of lawyer* expressed in the Halton pilot project report, which imagines a trust relationship in which the client regards the clinic as a top-of-mind place to get help, and will return to the clinic repeatedly with emerging problems.

Continuing Innovation and Transformation

While learning from the experience of the three adopting clinics in recruiting and building relationships with intermediaries, innovation is also part of the rollout. The follow-

ing sections discuss continuing innovations in the Legal Health Check-Up concept.

Change and innovation—and especially transformation—differ importantly in scale. Change introduces new elements such as rules, procedures or organization to modify specific activities. Transformation alters the beliefs and assumptions underlying a set of activities, and may even alter the activity’s objectives. Change can occur relatively quickly, while transformation is more foundational and occurs much more slowly. The future state is to a certain extent unknown at the beginning, but it is substantially different from the present.

Organizations supporting a transformational process and service organizations creating it should recognize that it will take time. How long is needed to succeed cannot be predicted with certainty. Funding organizations and front-line agencies must be committed to the overall objective, in this case a community development model of legal aid intended to alleviate poverty, and be willing to ride with uncertainty as the experiment unfolds.

It is reassuring that the Organization for Economic Co-operation and Development (OECD) has begun to examine legal aid’s potential for reducing poverty and stimulating economic growth. The OECD has examined contemporary legal problems research, and adopted the holistic and integrated client-centered approach that is reflected in the everyday legal problems approach.⁵

Administering the LHC to All Clients at Intake

The Halton clinic plans to begin administering the LHC to all clients at intake. This has some advantages in view of the low output of LHC forms by intermediaries. However, we still need to be mindful of outreach. The pilot study demonstrated that intermediaries can be effective in extending legal aid to the large number of people experiencing problems who do not come forward to ask for assistance. Outreach shades into holistic and integrated service through collaboration with the clinic. The LHC’s value is not all about numbers, but the need to increase the number of people served is part of the access problem.

Triage and Secondary Consultation

Triage is a familiar concept. In general, it refers to the practice of responding to and “sorting” individuals’ problems based on their degree or type of need, in order to determine the appropriate service or approach from limited resources. “Referral is a closely related process that refers to directing individuals to the appropriate resource(s) to assist with and/or resolve the problems.”⁶ A continuum-of-service approach that deals with both legal and non-legal issues may require a more complex form of triage.

Secondary consultation is not so familiar. It consists of legal advice, information

5. So far this work involved two expert advisory panels, on October 7 and December 1, 2015, at which the Canadian Forum on Civil Justice participated. The Legal Health Check-Up project was included in working notes for the first meeting; the OECD requested a presentation on the LHC at the December meeting.

or advice on legal processes provided by a lawyer to non-legal professionals involving their clients or their work for clients. The concept of secondary consultation grew out of Dr. Liz Curran’s experience as a supervising solicitor at the La Trobe University legal clinic in Australia. She reported having received many requests by non-legal professionals on matters such as ethics, legal rights or assistance in preparing documents with legal implications. These requests typically came from physicians, social workers or psychologist in a co-located legal–medical partnership.⁷ This may be a valuable tool to build relationships between legal clinics and intermediaries.

Three clinics—Halton Community Legal Services, the Legal Clinic of Guelph and Wellington County and the Brant, Haldimand and Norfolk Community Legal Clinic—have applied to the Provincial Clinic Law Service Expansion Fund for funding to hire an additional lawyer and community legal worker for each clinic. The lawyers would provide secondary consultations to intermediary groups and carry out second- and third-level triage while providing legal services to clients. The community legal workers would serve clients and manage the relationships between the clinics and intermediary groups. This new aspect of the LHC, an experiment in building clinic–intermediaries relationships, will strengthen the community’s capacity to collaborate with the clinics in identifying and addressing legal problems of vulnerable people, building a network to access justice services among key community organizations.

The triage envisaged in the Expansion Fund proposal is a three-stage approach adopted from the work of the National Action Committee on Access to Justice in Civil and Family Matters:⁸

Figure Two: Three-Stage Triage

STAGE 1	Early Triage and Referral Triage and referral to increase legal capability and manage conflict.
STAGE 2	Triage and Referral at Entry to Formal Justice System Triage and referral upon entry into the larger justice and advocacy system when a legal problem has been defined.
STAGE 3	Triage and Referral Related to Processes within the Formal Justice System Triage and referral at various points as clients navigate court/tribunal systems.

The first stage will be carried out at intake and by community legal workers. The second and third stages will be conducted by the triage lawyer for clients who require progressively more complex legal assistance.

6. National Action Committee on Access to Justice in Civil and Family Matters, *Responding Early, Responding Well: Access to Justice through the Early Resolution Services Sector*, Final Report of the Prevention, Triage and Referral Working Group, 2013.

7. Liz Curran, “The underrated value of lawyers advising professional non-lawyers in reaching hard to reach clients and building professional capacity – secondary consultations,” National Conference of Community Legal Centres, Melbourne, 2015 p. 4.

8. *Op cit.*, note 6.

Health Care and Legal Care

Legal problems frequently result in physical and stress-related illness. Research shows that 37% of people with legal problems also experience high levels of stress, and 24% experience physical illness as a direct result of the problem.⁹ The relationship between legal services and health care providers is, therefore, important. The nature of this connection is well-illustrated by a case that came to Halton Community Legal Services as a referral from a physician at the Halton Hills Family Health Team:

The client was living in rented accommodation that was badly in need of repair. Mould was a serious problem in the dwelling unit. Repeated attempts to have the landlord make the needed repairs. The client was afraid to take action against the landlord because she perceived him to be a politically powerful person in the community. The client went to the health care clinic to deal with illness related to the mould. The physician recognized the underlying issue, prescribed medication for the health issue and referred the individual to the legal clinic to deal with the basic problem.

The importance of the relationship between health care and legal services is evidenced by the hundreds of co-located legal and health services in the United States and elsewhere. In order to build this relationship in Guelph, the clinic plans to introduce a health leads legal worker who will work with the Health Guides and Health Link positions (or similar outreach positions in family health teams) to quickly navigate the most pressing legal issues in order to help clients stabilize their legal and health situation. And the Halton clinic will continue to strengthen its relationship with the Halton Hills Family Health Team, following several referrals similar to the one described above.

At this point it is not clear if the relationship between legal clinics and health care providers is unique or if it could be a model for other professional and non-professional intermediaries. The addition of triage, secondary consultation lawyers and the community legal workers will facilitate building these relationships and exploring their potential.

Conclusion

The pilot phase of the Halton Legal Health Check-Up project demonstrated that community agencies and groups embraced the LHC concept and the intermediary role with enthusiasm. With training and support, the intermediaries produced a large number of check-up contacts. This demonstrated the effectiveness of the LHC process to achieve outreach, thus extending legal aid to identify unmet need.

In Hamilton, Guelph and Brant rollouts, community agencies and organizations also openly accepted the LHC concept and an evolving, if unspecified, partnership with the clinics. This represents greater outreach, whether measured by the number of LHC forms used or, at a more preliminary stage, by the increased number of points of contact.

5. A Currie, "The Legal Problems of Everyday Life", Rebecca L. Sandefur (ed.), *Sociology of Law, Crime and Deviance*, Volume 12, Access to Justice, Emerald, 2009, p. 28.

Most intermediary groups recruited to the LHC process had previous associations with the clinics. The LHC approach is thus a process, or perhaps a platform, to broaden clinics' relationships with community groups. The LHC process could develop pre-existing relationships that may have been primarily consultative into collaborative problem-solving relationships at both the organizational and direct service levels.

The number of LHC forms that intermediaries are submitting to the three clinics that newly adopted the check-up process is low. And the number of forms being completed by the Halton intermediaries has declined significantly since the pilot phase, to a level similar to those in the three other clinics. This suggests that having intermediaries complete large numbers of forms may not be productive without significant effort by the clinics. A different approach to uncover the problems that clients using the LHC forms experience may be necessary. This should be done without losing the outreach capacity needed to identify unmet need.

A mode of crisis that may be common among front-line intermediary groups has been suggested as contributing in part to the low number of completed LHC forms. This is not to suggest that such a crisis mode should therefore define the intermediary partnerships built on the Legal Health Check-Up. Doing so would fundamentally weaken the poverty-reduction potential of the LHC approach, which proposes to go beyond controlling “temporary bleeding”—the immediate negative consequences of a critical legal problem—to making positive steps to alleviate poverty.¹⁰

Between 27% and 35% of people submitting completed LHC forms have requested assistance. But in the Halton pilot project, the comparable range for the seven intermediaries was originally 65% to 90% requesting service. With only one in three people who fill out the forms seeking assistance, does this represent success in reaching all those who need help?

By providing a holistic and integrated vehicle to improve the lives of the poor, the Legal Health Check-Up process represents a move beyond simply achieving legal outcomes. This is not to say the project has the potential to alleviate or eliminate poverty. It is not clear how to define realistic objectives or expected outcomes. However, early experiences in Halton and Guelph suggest that the LHC approach is promising—but requires a different kind of legal service and involves substantial effort.

10. In *The Anti-Poverty Effects of Civil Legal Aid* (The Public Welfare Foundation, 2014), Alan Houseman and Elisa Minoff identify four impacts of legal aid on poverty: 1) help clients entangled in administrative systems that prevent them from receiving benefits; 2) connect clients to benefits that might help lift them out of poverty; 3) help clients avoid costs that drive them into or increase poverty, and 4) help clients stabilize their lives so they can move out of poverty.

